

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

NICOLE D.,¹

Plaintiff,

v.

Civil Action No. 2:23cv131

MARTIN O'MALLEY,
Commissioner of the Social Security Administration,²

Defendant.

FINAL ORDER

This matter comes before the court on Defendant's ("the Commissioner") Motion to Dismiss for Lack of Prosecution, ECF No. 14, Plaintiff's pro se Brief, ECF No. 20, and Defendant's Brief in Support of the Commissioner's Decision Denying Benefits and in Opposition to Plaintiff's Brief Requesting Relief, ECF No. 21. On June 26, 2023, this matter was referred to United States Magistrate Judge Lawrence R. Leonard, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B)-(C) and Rule 72(b) of the Federal Rules of Civil

¹ The Committee on Court Administration and Case Management of the Judicial Conference of the United States has recommended that, due to significant privacy concerns in social security cases, federal courts should refer to claimants only by their first names and last initials.

² Plaintiff brought the instant Complaint against "Social Security." ECF No. 3. The proper Defendant in this case is the Commissioner of the Social Security Administration. Accordingly, pursuant to Federal Rule of Civil Procedure 25(d), the Court substitutes Commissioner Martin O'Malley for "Social Security" as the Defendant in this case.

Procedure, to conduct necessary hearings, including evidentiary hearings, and to submit to the undersigned district judge proposed findings of fact, if applicable, and recommendations for the disposition of the matter. ECF No. 11. The United States Magistrate Judge's Report and Recommendation ("R&R") was filed on June 14, 2024, recommending that the final decision of the Commissioner be **VACATED** and **REMANDED**. ECF No. 23.

By copy of the R&R, the parties were advised of their right to file written objections to the findings and recommendations made by the Magistrate Judge within fourteen (14) days from the date the R&R was forwarded to the objecting party. See id. at 18-19. No objections were filed by either party, and the time for filing objections has expired.


The court, having reviewed the record in its entirety, does hereby **ADOPT AND APPROVE IN FULL** the findings and recommendations set forth in the Magistrate Judge's thorough and well-reasoned R&R, filed on June 14, 2024. Id. Accordingly, Defendant's Motion to Dismiss is **DENIED**, and the Commissioner's final decision is **VACATED** and **REMANDED** for further proceedings.

The parties are **ADVISED** that an appeal from this Final Order may be commenced by forwarding a written notice of appeal to the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510. This written notice must be received by the Clerk within sixty days

from the date of this Final Order.

The Clerk is **DIRECTED** to effect the Remand and close the case on this court's docket. The Clerk is **DIRECTED** to forward copies of this Final Order to pro se Plaintiff and counsel for Defendant.

IT IS SO ORDERED.

/s/ 
Rebecca Beach Smith
Senior United States District Judge

REBECCA BEACH SMITH
SENIOR UNITED STATES DISTRICT JUDGE

July 31, 2024